

AMENDED IN ASSEMBLY FEBRUARY 8, 2016

AMENDED IN ASSEMBLY JULY 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment

No. 6

Introduced by Assembly Members ~~Brown and Perea~~ *Brown and Salas*

April 20, 2015

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article XIII thereof, and by amending Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL’S DIGEST

ACA 6, as amended, Brown. Property taxation: exemptions: fruit and nut trees: base year value transfers: persons with a severely disabled child.

(1) The California Constitution requires that all property be taxed unless otherwise provided by the California Constitution or the laws of the United States. The California Constitution exempts, among other things, fruit and nut trees for 4 years after the season in which they were planted in orchard form.

This measure would exempt from property taxation pistachio trees for 6 years after the season in which they were planted in orchard form.

(2) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased,

newly constructed, or a change in ownership has occurred. The California Constitution authorizes the Legislature to provide that persons over the age of 55 and persons who are severely disabled may transfer the base year value, as defined, of property to a replacement dwelling, if certain conditions are met. *dwelling.*

This measure would additionally authorize the Legislature to provide for transfer of base year value of property to a replacement dwelling for persons who have a severely disabled child.

Existing property tax law implementing the constitutional authorization described above authorizes taxpayers to transfer the base year value of property to a replacement dwelling if certain conditions are met, including, among others, that the claimant has not previously been granted, as a claimant, this property tax relief. For purposes of applying this condition, existing property tax law requires the spouse of a claimant previously granted this property tax relief, where the spouse is a record owner of the replacement dwelling, to also be considered a claimant previously granted this property tax relief.

This measure would, for purposes of applying this condition of eligibility, exclude from the term “claimant” a spouse of a person who previously claimed and was granted this property tax relief, where that spouse is also a record owner of the replacement dwelling. This measure would apply these provisions only to persons who file a claim on or after the effective date of this measure.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2015–16 Regular
- 3 Session commencing on the first day of December 2014, two-thirds
- 4 of the membership of each house concurring, hereby proposes to
- 5 the people of the State of California, that the Constitution of the
- 6 State be amended as follows:
- 7 First— That Section 3 of Article XIII thereof is amended to
- 8 read:
- 9 SEC. 3. The following are exempt from property taxation:
- 10 (a) Property owned by the State.
- 11 (b) Property owned by a local government, except as otherwise
- 12 provided in Section 11(a).
- 13 (c) Bonds issued by the State or a local government in the State.

1 (d) Property used for libraries and museums that are free and
2 open to the public and property used exclusively for public schools,
3 community colleges, state colleges, and state universities.

4 (e) Buildings, land, equipment, and securities used exclusively
5 for educational purposes by a nonprofit institution of higher
6 education.

7 (f) Buildings, land on which they are situated, and equipment
8 used exclusively for religious worship.

9 (g) Property used or held exclusively for the permanent deposit
10 of human dead or for the care and maintenance of the property or
11 the dead, except when used or held for profit. This property is also
12 exempt from special assessment.

13 (h) Growing crops.

14 (i) (1) Fruit and nut trees until four years after the season in
15 which they were planted in orchard form and grape vines until
16 three years after the season in which they were planted in vineyard
17 form.

18 (2) Notwithstanding paragraph (1), pistachio trees until six years
19 after the season in which they were planted in orchard form.

20 (j) Immature forest trees planted on lands not previously bearing
21 merchantable timber or planted or of natural growth on lands from
22 which the merchantable original growth timber stand to the extent
23 of 70 percent of all trees over 16 inches in diameter has been
24 removed. Forest trees or timber shall be considered mature at such
25 time after 40 years from the time of planting or removal of the
26 original timber when so declared by a majority vote of a board
27 consisting of a representative from the State Board of Forestry, a
28 representative from the State Board of Equalization, and the
29 assessor of the county in which the trees are located.

30 The Legislature may supersede the foregoing provisions with
31 an alternative system or systems of taxing or exempting forest
32 trees or timber, including a taxation system not based on property
33 valuation. Any alternative system or systems shall provide for
34 exemption of unharvested immature trees, shall encourage the
35 continued use of timberlands for the production of trees for timber
36 products, and shall provide for restricting the use of timberland to
37 the production of timber products and compatible uses with
38 provisions for taxation of timberland based on the restrictions.
39 Nothing in this paragraph shall be construed to exclude timberland
40 from the provisions of Section 8 of this article.

1 (k) Seven thousand dollars (\$7,000) of the full value of a
2 dwelling, as defined by the Legislature, when occupied by an
3 owner as his principal residence, unless the dwelling is receiving
4 another real property exemption. The Legislature may increase
5 this exemption and may deny it if the owner received state or local
6 aid to pay taxes either in whole or in part, and either directly or
7 indirectly, on the dwelling.

8 No increase in this exemption above the amount of seven
9 thousand dollars (\$7,000) shall be effective for any fiscal year
10 unless the Legislature increases the rate of state taxes in an amount
11 sufficient to provide the subventions required by Section 25.

12 If the Legislature increases the homeowners' property tax
13 exemption, it shall provide increases in benefits to qualified renters,
14 as defined by law, comparable to the average increase in benefits
15 to homeowners, as calculated by the Legislature.

16 (l) Vessels of more than 50 tons burden in this State and engaged
17 in the transportation of freight or passengers.

18 (m) Household furnishings and personal effects not held or used
19 in connection with a trade, profession, or business.

20 (n) Any debt secured by land.

21 (o) Property in the amount of one thousand dollars (\$1,000) of
22 a claimant who—

23 (1) is serving in or has served in and has been discharged under
24 honorable conditions from service in the United States Army,
25 Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine
26 (Revenue Cutter) Service; and—

27 (2) served either

28 (i) in time of war, or

29 (ii) in time of peace in a campaign or expedition for which a
30 medal has been issued by Congress, or

31 (iii) in time of peace and because of a service-connected
32 disability was released from active duty; and—

33 (3) resides in the State on the current lien date.

34 An unmarried person who owns property valued at five thousand
35 dollars (\$5,000) or more, or a married person, who, together with
36 the spouse, owns property valued at ten thousand dollars (\$10,000)
37 or more, is ineligible for this exemption.

38 If the claimant is married and does not own property eligible for
39 the full amount of the exemption, property of the spouse shall be
40 eligible for the unused balance of the exemption.

(p) Property in the amount of one thousand dollars (\$1,000) of a claimant who—

(1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) does not own property in excess of ten thousand dollars (\$10,000), and

(3) is a resident of the State on the current lien date.

(q) Property in the amount of one thousand dollars (\$1,000) of a claimant who—

(1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) receives a pension because of the veteran's service, and

(3) is a resident of the State on the current lien date.

Either parent of a deceased veteran may claim this exemption.

An unmarried person who owns property valued at five thousand dollars (\$5,000) or more, or a married person, who, together with the spouse, owns property valued at ten thousand dollars (\$10,000) or more, is ineligible for this exemption.

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by the previous Section 1 $\frac{1}{4}$ of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment.

Second— That Section 2 of Article XIII A thereof is amended to read:

SEC. 2. (a) (1) The “full cash value” means the county assessor's valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, “newly constructed” does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. For purposes of this section, the term “newly constructed” does not include that portion of an existing structure that consists of the

1 construction or reconstruction of seismic retrofitting components,
2 as defined by the Legislature.

3 (2) (A) However, the Legislature may provide that, under
4 appropriate circumstances and pursuant to definitions and
5 procedures established by the Legislature, any person over the age
6 of 55 years who resides in property that is eligible for the
7 homeowner's exemption under subdivision (k) of Section 3 of
8 Article XIII and any implementing legislation may transfer the
9 base year value of the property entitled to exemption, with the
10 adjustments authorized by subdivision (b), to any replacement
11 dwelling of equal or lesser value located within the same county
12 and purchased or newly constructed by that person as his or her
13 principal residence within two years of the sale of the original
14 property. ~~For This paragraph applies to any replacement dwelling~~
15 ~~that was purchased or newly constructed on or after November 5,~~
16 ~~1986.~~

17 (B) For purposes of this section, ~~any~~ *all of the following shall*
18 *apply:*

19 (i) "Any person over the age of 55 years" includes a married
20 couple one member of which is over the age of 55 years. ~~For~~
21 ~~purposes of this section, "replacement~~

22 (ii) "Replacement dwelling" means a building, structure, or
23 other shelter constituting a place of abode, whether real property
24 or personal property, and any land on which it may be situated.
25 ~~For purposes of this section, a~~

26 (iii) A two-dwelling unit shall be considered as two separate
27 single-family dwellings. ~~This paragraph shall apply to any~~
28 ~~replacement dwelling that was purchased or newly constructed on~~
29 ~~or after November 5, 1986.~~

30 (iv) *For purposes of Section 69.5 of the Revenue and Taxation*
31 *Code or any successor statute, a person shall not be deemed to*
32 *have previously claimed and been granted the property tax relief*
33 *authorized by this subdivision by reason of being or having been*
34 *the spouse of a person who previously claimed and was granted*
35 *that property tax relief, and also being or having been a record*
36 *owner of the replacement dwelling. This clause applies only to*
37 *persons who file a claim for the property tax relief authorized by*
38 *this subdivision on or after the effective date of this clause.*

39 (3) In addition, the Legislature may authorize each county board
40 of supervisors, after consultation with the local affected agencies

1 within the county's boundaries, to adopt an ordinance making the
2 provisions of this subdivision relating to transfer of base year value
3 also applicable to situations in which the replacement dwellings
4 are located in that county and the original properties are located
5 in another county within this State. For purposes of this paragraph,
6 "local affected agency" means any city, special district, school
7 district, or community college district that receives an annual
8 property tax revenue allocation. This paragraph applies to any
9 replacement dwelling that was purchased or newly constructed on
10 or after the date the county adopted the provisions of this
11 subdivision relating to transfer of base year value, but does not
12 apply to any replacement dwelling that was purchased or newly
13 constructed before November 9, 1988.

14 (4) The Legislature may extend the provisions of this subdivision
15 relating to the transfer of base year values from original properties
16 to replacement dwellings of homeowners over the age of 55 years
17 to either ~~of~~ or both of the following:

18 (A) Severely disabled homeowners, but only with respect to
19 those replacement dwellings purchased or newly constructed on
20 or after June 6, 1990.

21 (B) Homeowners with a severely disabled child, but only with
22 respect to those replacement dwellings purchased or newly
23 constructed on or after the effective date of this ~~paragraph~~.
24 *subparagraph*.

25 (b) The full cash value base may reflect from year to year the
26 inflationary rate not to exceed 2 percent for any given year or
27 reduction as shown in the consumer price index or comparable
28 data for the area under taxing jurisdiction, or may be reduced to
29 reflect substantial damage, destruction, or other factors causing a
30 decline in value.

31 (c) For purposes of subdivision (a), the Legislature may provide
32 that the term "newly constructed" does not include any of the
33 following:

34 (1) The construction or addition of any active solar energy
35 system.

36 (2) The construction or installation of any fire sprinkler system,
37 other fire extinguishing system, fire detection system, or fire-related
38 egress improvement, as defined by the Legislature, that is
39 constructed or installed after the effective date of this paragraph.

1 (3) The construction, installation, or modification on or after
2 the effective date of this paragraph of any portion or structural
3 component of a single- or multiple-family dwelling that is eligible
4 for the homeowner's exemption if the construction, installation,
5 or modification is for the purpose of making the dwelling more
6 accessible to a severely disabled person.

7 (4) The construction, installation, removal, or modification on
8 or after the effective date of this paragraph of any portion or
9 structural component of an existing building or structure if the
10 construction, installation, removal, or modification is for the
11 purpose of making the building more accessible to, or more usable
12 by, a disabled person.

13 (d) For purposes of this section, the term "change in ownership"
14 does not include the acquisition of real property as a replacement
15 for comparable property if the person acquiring the real property
16 has been displaced from the property replaced by eminent domain
17 proceedings, by acquisition by a public entity, or governmental
18 action that has resulted in a judgment of inverse condemnation.
19 The real property acquired shall be deemed comparable to the
20 property replaced if it is similar in size, utility, and function, or if
21 it conforms to state regulations defined by the Legislature
22 governing the relocation of persons displaced by governmental
23 actions. This subdivision applies to any property acquired after
24 March 1, 1975, but affects only those assessments of that property
25 that occur after the provisions of this subdivision take effect.

26 (e) (1) Notwithstanding any other provision of this section, the
27 Legislature shall provide that the base year value of property that
28 is substantially damaged or destroyed by a disaster, as declared
29 by the Governor, may be transferred to comparable property within
30 the same county that is acquired or newly constructed as a
31 replacement for the substantially damaged or destroyed property.

32 (2) Except as provided in paragraph (3), this subdivision applies
33 to any comparable replacement property acquired or newly
34 constructed on or after July 1, 1985, and to the determination of
35 base year values for the 1985–86 fiscal year and fiscal years
36 thereafter.

37 (3) In addition to the transfer of base year value of property
38 within the same county that is permitted by paragraph (1), the
39 Legislature may authorize each county board of supervisors to
40 adopt, after consultation with affected local agencies within the

1 county, an ordinance allowing the transfer of the base year value
2 of property that is located within another county in the State and
3 is substantially damaged or destroyed by a disaster, as declared
4 by the Governor, to comparable replacement property of equal or
5 lesser value that is located within the adopting county and is
6 acquired or newly constructed within three years of the substantial
7 damage or destruction of the original property as a replacement
8 for that property. The scope and amount of the benefit provided
9 to a property owner by the transfer of base year value of property
10 pursuant to this paragraph shall not exceed the scope and amount
11 of the benefit provided to a property owner by the transfer of base
12 year value of property pursuant to subdivision (a). For purposes
13 of this paragraph, “affected local agency” means any city, special
14 district, school district, or community college district that receives
15 an annual allocation of ad valorem property tax revenues. This
16 paragraph applies to any comparable replacement property that is
17 acquired or newly constructed as a replacement for property
18 substantially damaged or destroyed by a disaster, as declared by
19 the Governor, occurring on or after October 20, 1991, and to the
20 determination of base year values for the 1991–92 fiscal year and
21 fiscal years thereafter.

22 (f) For the purposes of subdivision (e):

23 (1) Property is substantially damaged or destroyed if it sustains
24 physical damage amounting to more than 50 percent of its value
25 immediately before the disaster. Damage includes a diminution in
26 the value of property as a result of restricted access caused by the
27 disaster.

28 (2) Replacement property is comparable to the property
29 substantially damaged or destroyed if it is similar in size, utility,
30 and function to the property that it replaces, and if the fair market
31 value of the acquired property is comparable to the fair market
32 value of the replaced property prior to the disaster.

33 (g) For purposes of subdivision (a), the terms “purchased” and
34 “change in ownership” do not include the purchase or transfer of
35 real property between spouses since March 1, 1975, including, but
36 not limited to, all of the following:

37 (1) Transfers to a trustee for the beneficial use of a spouse, or
38 the surviving spouse of a deceased transferor, or by a trustee of
39 such a trust to the spouse of the trustor.

1 (2) Transfers to a spouse that take effect upon the death of a
2 spouse.

3 (3) Transfers to a spouse or former spouse in connection with
4 a property settlement agreement or decree of dissolution of a
5 marriage or legal separation.

6 (4) The creation, transfer, or termination, solely between
7 spouses, of any coowner's interest.

8 (5) The distribution of a legal entity's property to a spouse or
9 former spouse in exchange for the interest of the spouse in the
10 legal entity in connection with a property settlement agreement or
11 a decree of dissolution of a marriage or legal separation.

12 (h) (1) For purposes of subdivision (a), the terms "purchased"
13 and "change in ownership" do not include the purchase or transfer
14 of the principal residence of the transferor in the case of a purchase
15 or transfer between parents and their children, as defined by the
16 Legislature, and the purchase or transfer of the first one million
17 dollars (\$1,000,000) of the full cash value of all other real property
18 between parents and their children, as defined by the Legislature.
19 This subdivision applies to both voluntary transfers and transfers
20 resulting from a court order or judicial decree.

21 (2) (A) Subject to subparagraph (B), commencing with
22 purchases or transfers that occur on or after the date upon which
23 the measure adding this paragraph becomes effective, the exclusion
24 established by paragraph (1) also applies to a purchase or transfer
25 of real property between grandparents and their grandchild or
26 grandchildren, as defined by the Legislature, that otherwise
27 qualifies under paragraph (1), if all of the parents of that grandchild
28 or those grandchildren, who qualify as the children of the
29 grandparents, are deceased as of the date of the purchase or transfer.

30 (B) A purchase or transfer of a principal residence shall not be
31 excluded pursuant to subparagraph (A) if the transferee grandchild
32 or grandchildren also received a principal residence, or interest
33 therein, through another purchase or transfer that was excludable
34 pursuant to paragraph (1). The full cash value of any real property,
35 other than a principal residence, that was transferred to the
36 grandchild or grandchildren pursuant to a purchase or transfer that
37 was excludable pursuant to paragraph (1), and the full cash value
38 of a principal residence that fails to qualify for exclusion as a result
39 of the preceding sentence, shall be included in applying, for

1 purposes of subparagraph (A), the one-million-dollar (\$1,000,000)
2 full cash value limit specified in paragraph (1).

3 (i) (1) Notwithstanding any other provision of this section, the
4 Legislature shall provide with respect to a qualified contaminated
5 property, as defined in paragraph (2), that either, but not both, of
6 the following apply:

7 (A) (i) Subject to the limitation of clause (ii), the base year
8 value of the qualified contaminated property, as adjusted as
9 authorized by subdivision (b), may be transferred to a replacement
10 property that is acquired or newly constructed as a replacement
11 for the qualified contaminated property, if the replacement real
12 property has a fair market value that is equal to or less than the
13 fair market value of the qualified contaminated property if that
14 property were not contaminated and, except as otherwise provided
15 by this clause, is located within the same county. The base year
16 value of the qualified contaminated property may be transferred
17 to a replacement real property located within another county if the
18 board of supervisors of that other county has, after consultation
19 with the affected local agencies within that county, adopted a
20 resolution authorizing an intercounty transfer of base year value
21 as so described.

22 (ii) This subparagraph applies only to replacement property that
23 is acquired or newly constructed within five years after ownership
24 in the qualified contaminated property is sold or otherwise
25 transferred.

26 (B) In the case in which the remediation of the environmental
27 problems on the qualified contaminated property requires the
28 destruction of, or results in substantial damage to, a structure
29 located on that property, the term “new construction” does not
30 include the repair of a substantially damaged structure, or the
31 construction of a structure replacing a destroyed structure on the
32 qualified contaminated property, performed after the remediation
33 of the environmental problems on that property, provided that the
34 repaired or replacement structure is similar in size, utility, and
35 function to the original structure.

36 (2) For purposes of this subdivision, “qualified contaminated
37 property” means residential or nonresidential real property that is
38 all of the following:

39 (A) In the case of residential real property, rendered
40 uninhabitable, and in the case of nonresidential real property,

1 rendered unusable, as the result of either environmental problems,
2 in the nature of and including, but not limited to, the presence of
3 toxic or hazardous materials, or the remediation of those
4 environmental problems, except where the existence of the
5 environmental problems was known to the owner, or to a related
6 individual or entity as described in paragraph (3), at the time the
7 real property was acquired or constructed. For purposes of this
8 subparagraph, residential real property is “uninhabitable” if that
9 property, as a result of health hazards caused by or associated with
10 the environmental problems, is unfit for human habitation, and
11 nonresidential real property is “unusable” if that property, as a
12 result of health hazards caused by or associated with the
13 environmental problems, is unhealthy and unsuitable for
14 occupancy.

15 (B) Located on a site that has been designated as a toxic or
16 environmental hazard or as an environmental cleanup site by an
17 agency of the State of California or the federal government.

18 (C) Real property that contains a structure or structures thereon
19 prior to the completion of environmental cleanup activities, and
20 that structure or structures are substantially damaged or destroyed
21 as a result of those environmental cleanup activities.

22 (D) Stipulated by the lead governmental agency, with respect
23 to the environmental problems or environmental cleanup of the
24 real property, not to have been rendered uninhabitable or unusable,
25 as applicable, as described in subparagraph (A), by any act or
26 omission in which an owner of that real property participated or
27 acquiesced.

28 (3) It shall be rebuttably presumed that an owner of the real
29 property participated or acquiesced in any act or omission that
30 rendered the real property uninhabitable or unusable, as applicable,
31 if that owner is related to any individual or entity that committed
32 that act or omission in any of the following ways:

33 (A) Is a spouse, parent, child, grandparent, grandchild, or sibling
34 of that individual.

35 (B) Is a corporate parent, subsidiary, or affiliate of that entity.

36 (C) Is an owner of, or has control of, that entity.

37 (D) Is owned or controlled by that entity.

38 If this presumption is not overcome, the owner shall not receive
39 the relief provided for in subparagraph (A) or (B) of paragraph
40 (1). The presumption may be overcome by presentation of

1 satisfactory evidence to the assessor, who shall not be bound by
2 the findings of the lead governmental agency in determining
3 whether the presumption has been overcome.

4 (4) This subdivision applies only to replacement property that
5 is acquired or constructed on or after January 1, 1995, and to
6 property repairs performed on or after that date.

7 (j) Unless specifically provided otherwise, amendments to this
8 section adopted prior to November 1, 1988, are effective for
9 changes in ownership that occur, and new construction that is
10 completed, after the effective date of the amendment. Unless
11 specifically provided otherwise, amendments to this section
12 adopted after November 1, 1988, are effective for changes in
13 ownership that occur, and new construction that is completed, on
14 or after the effective date of the amendment.